



COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent to Extend Collection

3038-0075: Protection of Collateral of Counterparties to Uncleared Swaps;

Treatment of Securities in a Portfolio Margining Account in a Commodity Broker Bankruptcy

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (“Commission” or “CFTC”) is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (“PRA”), Federal agencies are required to publish notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on reporting requirements relating to uncleared swaps between certain affiliated entities electing the exemption under Commission regulation 50.52 (Exemption for swaps between affiliates).

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by “OMB Control No. 3038-0075” by any of the following methods:

- The Agency’s website, at <https://comments.cftc.gov/>. Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581.

- *Hand Delivery/Courier*: Same as Mail above.

Please submit your comments using only one method. All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to <https://www.cftc.gov>.

FOR FURTHER INFORMATION CONTACT: Christopher W. Cummings, Special Counsel, Market Participants Division, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581; (202) 418-5445; email: ccummings@cftc.gov.

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.*, Federal agencies must obtain approval from the Office of Management and Budget (“OMB”) for each collection of information they conduct or sponsor. “Collection of Information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the *Federal Register* concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the Commission is publishing notice of the proposed extension of the existing collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.¹

Title: Protection of Collateral of Counterparties to Uncleared Swaps; Treatment of Securities in a Portfolio Margining Account in a Commodity Broker Bankruptcy

¹The OMB control numbers for the CFTC regulations were published on December 30, 1981. See 46 FR 63035 (Dec. 30, 1981).

(OMB Control No. 3038-0075). This is a request for an extension of a currently approved information collection.

Abstract: Section 4s(l) of the Commodity Exchange Act requires swap dealers and major swap participants to notify uncleared swap counterparties that they have the right to request that property provided as margin be segregated, and to report quarterly to counterparties who have not requested segregated accounts that the back office procedures of the swap dealer or major swap participant with respect to margin and collateral comply with the parties' agreement. Regulations 23.701 and 23.704 establish reporting requirements that are mandated by Section 4s(l) and, thus, are necessary to implement the objectives of Section 4s(l). Regulation 23.701 requires that the SD or MSP notify the counterparty at the beginning of the swap trading relationship of the counterparty's right to require segregation of initial margin, and to permit the counterparty to change that election by written notice to the SD or MSP. Regulation 23.704 requires that, in certain circumstances, an SD or MSP must report to the counterparty, on a quarterly basis, that the back office procedures of the swap dealer or major swap participant relating to margin and collateral requirements are in compliance with the agreement of the counterparties. The data required to be compiled and maintained pursuant to Regulations 23.701 and 23.704 would be used by uncleared swap counterparties (and, in some instances, the CFTC and self-regulatory organizations).

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

You should submit only information that you wish to make available publicly. If you wish for the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.²

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from <https://www.cftc.gov> that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the Information Collection Request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

Burden Statement: The Commission continues to estimate that the respondent burden for this collection is as follows:

- Regulation 23.701:

Estimated Number of Respondents: 108.

Estimated Average Burden Hours Per Respondent: 600 hours.

Estimated Total Annual Burden Hours: 64,800 hours.

² 17 CFR 145.9.

Frequency of Collection: Beginning of the swap trading relationship with a counterparty.

- Regulation 23.704:

Estimated Number of Respondents: 108.

Estimated Average Burden Hours Per Respondent: 806 hours.

Estimated Total Annual Burden Hours: 87,048 hours.

Frequency of Collection: Quarterly (4 times per year).

- Total Annual Burden for the Collection: 151,848 hours.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: February 16, 2022.

Robert Sidman,

Deputy Secretary of the Commission.

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